Filed 6/10/14 In re I.S. CA4/2

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**



**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

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| In re I.S., a Person Coming Under the Juvenile Court Law. | |
| RIVERSIDE COUNTY DEPARTMENT OF PUBLIC SOCIAL SERVICES,<br><br>Plaintiff and Respondent;<br><br>v.<br><br>D.G.,<br><br>Defendant and Appellant. | E058088<br><br>(Super.Ct.No. INJ014260)<br><br>OPINION |

APPEAL from the Superior Court of Riverside County. Lawrence P. Best, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Lori A. Fields, under appointment by the Court of Appeal, for Defendant and Appellant.

Pamela J. Walls, County Counsel and Julie Koons Jarvi, Deputy County Counsel, for Plaintiff and Respondent.

I. S., the minor, was taken into protective custody at his maternal uncle's residence after a search warrant was executed at that location, resulting in the uncle's arrest for cultivating nearly 100 marijuana plants. The Riverside Department of Public Social Services (DPSS) filed a dependency petition as to the minor alleging maternal neglect, mother's prior child welfare history with the minor's half-siblings which resulted in the termination of her parental rights to those children, and father's failure to provide for the minor. At the combined contested jurisdictional and dispositional hearing, the court made a true finding as to the allegations of neglect and failure to provide, removed custody of the minor from the mother, awarded custody to the father, and terminated jurisdiction. Mother appealed.

On appeal, mother argues there is insufficient evidence to support any of the allegations as to jurisdiction, and challenges the dispositional order removing custody of the minor from her, and placing the child with his father. We affirm.

## BACKGROUND

On December 7, 2012, police officers executed a search warrant at the Desert Hot Springs residence of Tommy A., maternal uncle of the minor, while the minor and another child were present. During the search, officers found approximately 99 marijuana plants, approximately 32.2 grams of suspected marijuana, two operable digital scales, packaging materials, and a cell phone containing text messages relating to marijuana sales. In the master bedroom, officers located a 9 mm automatic rifle with a loaded magazine. In one of the bedrooms, police also found fertilizers and insecticides

accessible to the children. None of the bedrooms had locks on the doors, making the drugs, weapon, and chemicals accessible to the minors. The minor was taken into protective custody.

DPSS filed a dependency petition as to the mother alleging general neglect and failure to supervise or provide adequate shelter for the minor. It was further alleged that mother had a history with Riverside County Child Protective Services respecting the minor's four older half-siblings. Specifically, the petition alleged that mother failed to reunify with the half-siblings, resulting in the termination of her parental rights as to those children, and their adoption by the maternal grandmother. Additionally, the petition alleged that mother has a history of abusing controlled substances, and a history of mental health issues, which have not been treated. As to the minor's father, the petition alleged that he was not a member of the child's household and has failed to provide the child with adequate food, clothing, shelter, medical treatment, support or protection.

Prior to the jurisdictional hearing, the social worker investigated the allegations and submitted a report. According to the social worker's investigation, the minor had been residing with his maternal grandmother (the adoptive mother of the minor's half-siblings) for the entire current school year and part of the previous school year. When interviewed, the minor informed the social worker that his mother lived on the streets. Mother denied being transient, but stated she alternated between her boyfriend's residence and that of a friend who lived in a condemned apartment complex. According

to mother, the minor only stayed with his maternal grandmother "here and there." However, the minor, the maternal grandmother, and the maternal uncle all stated the minor lived with the maternal grandmother.

While the minor resided with his maternal grandmother, the maternal uncle picked him up from the grandmother's home to take him to martial arts during the week, and on Fridays, the minor stayed overnight with his maternal uncle. It was on one of the Friday night sleepovers that the uncle's residence was searched pursuant to a warrant. The mother denied knowledge of her brother's marijuana growing activities.

When interviewed about her child welfare history, mother denied having a substance abuse problem, or that she was ever ordered to participate in a substance abuse program, or that her parental rights were involuntarily terminated. Nevertheless, in the dependency matter relating to the minor's older half-siblings, mother's reunification services, and ultimately her parental rights to the older children, were terminated due to lack of compliance with her case plan. According to mother, she did not abuse controlled substances, although she took several prescription medications for back pain and admitted methamphetamine use until two years ago. By her own admission, mother took Norco,[1] Zoloft, Xanax, and Ativan,[2] although she did not have prescription bottles or know the dosages, and did not take the drugs as prescribed.

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[1] According to the social worker's testimony at the jurisdictional hearing, Norco is a powerful opiate.

Mother maintained that she voluntarily signed over her parental rights to the older half-siblings to the maternal grandmother, and attributed her loss of custody of those children to a mental breakdown following the murder of her brother.[3] The social worker's investigation revealed a lengthy history of prior child welfare referrals and a substantial criminal history, including the theft of her own sister's identity and criminal conduct committed under that name. As to other issues, mother denied any mental health problems, or housing difficulties.

Although father's whereabouts were unknown at the time the petition was filed, he was located prior to the jurisdictional hearing and interviewed. Father was ignorant of the maternal uncle's activities, mother's housing situation, or her drug use when he was involved with her. He was unaware of the dependency relating to the older half-siblings until well into his relationship with mother. He denied failing to provide for the minor, indicating he visited the minor five or six times per year, picked him up and dropped him off, and bought the minor anything he needed, although the mother and maternal grandmother complained father had done little to support or care for his son. The father requested care and custody of the minor. Although father had not taken a routine interest in the minor's well-being, he was motivated to assume custody.

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[2] Zoloft is an antidepressant, while Xanax and Ativan are classified as benzodiazepine drugs used to treat anxiety. (*Physicians' Desk Reference* (2014, 68th ed.), www.pdr.net/)

[3] Mother lost custody of her older children in 2002, resulting in termination of her parental rights in 2004 or 2005; her brother was apparently murdered in 1996.

The social worker recommended that the court make a true finding as to paragraphs b-1 through b-6 under Welfare and Institutions Code, section 300, subdivision (b),[4] but that it strike the allegation pursuant to section 300, subdivision (g), since the father's whereabouts were now known.

The minor was placed with his father on February 5, 2013. The social worker reported in an addendum report that the minor seemed pleased to see his father and to move in with him. The jurisdictional hearing was held on February 8, 2013. After hearing the testimony of the social worker and the mother, the court sustained all the allegations under section 300, subdivision (b), but struck the allegation under section 300, subdivision (g). The court removed custody from the mother, awarded sole physical custody of the minor with his father, and terminated jurisdiction. Mother appealed.

## DISCUSSION

### 1. Sufficiency of Evidence to Support the Petition.

Mother raises challenges to the sufficiency of the evidence to support each of the allegations of the petition. We review each claim under the substantial evidence standard of review.

In reviewing the sufficiency of the evidence on appeal, we consider the entire record to determine whether substantial evidence supports the findings of the juvenile court. (*In re T.V.* (2013) 217 Cal.App.4th 126, 133.) We do not pass judgment on the

[4] All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

credibility of witnesses, attempt to resolve conflicts in the evidence, or determine where the weight of the evidence lies. Rather, we draw all reasonable inferences in support of the findings, view the record in the light most favorable to the juvenile court's order, and affirm the order even if there is other evidence that would support a contrary finding. (*In re Cole C.* (2009) 174 Cal.App.4th 900, 916, citing *In re Casey D.* (1999) 70 Cal.App.4th 38, 52-53.) The appellant has the burden of showing that there is no evidence of a sufficiently substantial nature to support the order. (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 947; *In re Geoffrey G.* (1979) 98 Cal.App.3d 412, 420.)

To support a true finding under section 300, subdivision (b), three elements must be proven: (1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) serious physical harm or illness to the minor, or a substantial risk of serious physical harm in the future. (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820.) The third element requires a showing that at the time of the jurisdiction hearing the child is at substantial risk of serious physical harm in the future. (*In re David M.* (2005) 134 Cal.App.4th 822, 829.)

Section 300 does not require that a child actually be abused or neglected before the juvenile court can assume jurisdiction. (*In re I.J.* (2013) 56 Cal.4th 766, 773.) The legislative purpose of section 300, subdivision (b) (among other subdivisions) is to provide maximum safety and protection for children who are currently being abused, neglected or exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of that harm. (§ 300.2; *In re I.J., supra,* at p. 773,

italics omitted.) Thus, while actual abuse can be a basis for exercising jurisdiction, it is by no means requisite when there is evidence of substantial risk. (*In re T.V., supra*, 217 Cal.App.4th at p. 134, citing *In re I.J., supra*, 56 Cal.4th at p. 773.) Instead there need only be a "substantial risk" of abuse or neglect. (*Ibid.*)

With these standards in mind, we examine mother's contentions.

***a. Neglect Allegation***.

Mother was alleged to have neglected the minor based on the fact he was found in the marijuana "grow house" of her brother where nearly 100 marijuana plants, toxic chemicals, and firearms were accessible to the minor. According to the detention and jurisdictional reports, which were admitted into evidence, mother allowed others to care for her child, while she alternated residences between a boyfriend's home in Palm Desert, and a condemned apartment she shared with a roommate, leaving the minor with his maternal grandmother and four half-siblings. The minor resided with the maternal grandmother, who suffers from several chronic health problems (including, but not limited to, high blood pressure, diabetes, and heart issues) for the entire school year.

The social worker's reports refer to mother's failure to supervise the minor, leaving him with grandmother, who in turn allowed the minor to be transported by a non-relative to his maternal uncle's house, which was used as a marijuana farm. Mother claims she had nothing to do with the minor being transported to his uncle's home and had no reasonable way to know that her brother was engaged in illegal drug activities. However, she was aware that the minor visited the uncle's home regularly and that the

uncle, a convicted felon, took the minor to martial arts classes during the week. The court determined that mother either knew about the growing operation or was "so checked out of the day to day care that she didn't know," because the police report described the odor of marijuana at the brother's house as overwhelming. In any event, mother was also aware that her brother was a convicted felon, and that he may have been convicted of murder, yet she allowed him to take her child to martial arts classes twice a week and spend the night on Fridays.

At the jurisdictional hearing, the social worker referred again to the fact that the minor was taken weekly to a location where no one who was responsible for the child was familiar with the conditions thereof as a circumstance that led to the his recommendation. The fact that the minor was spending Friday nights in the home of a convicted felon, who had a loaded firearm, numerous marijuana plants, and dangerous chemicals (fertilizers, etc.) accessible to the minor, established a substantial risk of serious physical harm.

Being ignorant of the uncle's cultivation activities was not a defense, but, rather, an admission that mother failed to supervise her child. In other words, if mother had properly supervised her child, she would have known of the hazards in the uncle's home. Had mother properly supervised the minor, he would not have been taken into protective custody when the uncle was arrested. Substantial evidence supports the true finding.

***b. Allegations Relating to Mother's Prior Child Welfare, Substance Abuse, and Mental Health History***.

Mother argues that the allegations in paragraphs b-2, b-4, and b-5, relating to mother's historical issues, were unrelated to current circumstances and legally insufficient to support dependency jurisdiction under section 300, subdivision (b). The information contained in those paragraphs was included to show that mother's prior circumstances and conditions that justified loss of custody of the minor's half siblings were still present, and to support a bypass of reunification services, pursuant to section 361.5, subdivisions (b)(10) and (11).

Section 361.5, subdivision (a), provides in pertinent part that whenever a child is removed from a parent's custody, the juvenile court shall order the social worker to provide child welfare services to the mother and the child's presumed father. (*Renee J. v. Superior Court* (2001) 26 Cal.4th 735, 744 (*Renee J.*); *R.T. v. Superior Court* (2012) 202 Cal.App.4th 908, 914.) Section 361.5, subdivision (b) sets forth a number of circumstances in which reunification services may be bypassed altogether, representing the Legislature's recognition that it may be fruitless to provide reunification services under certain circumstances. (*Franciso G. v. Superior Court* (2001) 91 Cal.App.4th 586, 597.) Section 361.5, subdivisions (b)(10) and (11), authorize the denial of services to a parent who has failed to reunify with another child or whose parental rights to another child were terminated if the court finds that the parent has not subsequently made a

reasonable effort to treat the problems that led to removal of the sibling or half-sibling. (*R.T. v. Superior Court, supra,* 202 Cal.App.4th at p. 914.)

The intent of subdivision (b)(10) is to allow juvenile courts to deny reunification services if a parent has already failed at attempted reunification. (*Renee J., supra,* 26 Cal.4th at pp. 739-740; *In re Gabriel K.* (2012) 203 Cal.App.4th 188, 195.) The reasonable effort requirement focuses on the extent of the parent's efforts, not whether he or she has attained a certain level of progress. (*R.T. v. Superior Court, supra,* 202 Cal.App.4th at p. 914, citing *Cheryl P. v. Superior Court* (2006) 139 Cal.App.4th 87, 99.) To be reasonable, the parent's efforts must be more than "lackadaisical or half-hearted." (*K.C. v. Superior Court* (2010) 182 Cal.App.4th 1388, 1393.)

These allegations were included in the petition to address reunification issues. However, they were also relevant to a determination of whether current circumstances warrant dependency jurisdiction, contrary to mother's assertion. An allegation that a parent had reunification services terminated as to a child's siblings, coupled with an allegation that the parent has not made reasonable efforts to resolve the problems that led to the removal of those siblings, is tantamount to an allegation that the mother's current circumstances are now as they were then. (See *In re Diamond H.* (2000) 82 Cal.App.4th 1127, 1140 [overruled on a different point in *Renee J., supra,* 26 Cal.4th at p. 748] [the reasonable efforts finding was based on the mother's current circumstances].)

The history of mother's involvement with the child welfare agency demonstrates that she lost custody of the minor's four older half-siblings on the basis of mental illness-

related problems, substance abuse, and lack of supervision. Those same circumstances gave rise to the instant petition, where, contrary to mother's assertion at oral argument that she took care of I.S. without assistance or agency involvement, she regularly left the child with relatives, and social worker testified the child had been living primarily with his maternal grandmother.

Mother's services were terminated in the prior dependency due to her failure or refusal to participate in services to address those problems, and those children were adopted by the maternal grandmother. Mother currently was in denial that she was ever ordered to complete a substance abuse program and maintained that the reason those children were adopted was because she relinquished her rights. This reflects on her current mental functioning and the risks it posed to the minor. Mother acknowledged to the social worker that she had been previously diagnosed with mental illness (severe depression and "socio-path") when the minor was detained, and admitted she did not take medication as prescribed.

In the prior dependency, as in the current case, DPSS intervened based on a referral alleging caretaker absence or incapacitation, and severe neglect after mother left the half-siblings. It was also alleged in the former proceeding that mother had prior psychiatric holds and prior suicide attempts, that one of the children had special needs and the maternal grandmother requested financial and medical assistance for the children because mother did not provide any. The mother's continuing and untreated mental problems posed a current risk to the minor.

Further, for purposes of determining reunification services for the mother, it was pertinent that a prior dependency case involved the mother leaving the half-siblings without appropriate care or support. The record shows mother left the minor with the maternal grandmother, admitted she still has mental health issues which have not been treated, but denied any substance abuse history, although she admitted she had been using methamphetamine until two years prior to the minor's detention, and she had been arrested for possession of controlled substances in 2011.

These factors are nearly identical to the circumstances giving rise to the prior dependency. To the extent the petition alleges that mother's historical issues have never been addressed, the paragraphs properly related to mother's current circumstances and current risk of harm to the minor. The court's true finding is supported by substantial evidence and justified jurisdiction under section 300, subdivision (b). Mother's untreated mental health concerns and substance abuse justified a current finding under section 300, subdivision (b).

***c. Allegations Relating to Mother's Transient Lifestyle***

Mother argues that there is insufficient evidence to support the true finding as to paragraph b-3, relating to mother's alleged transient lifestyle, because at the time of the hearing, mother was not transient. We disagree.

It is true that poverty and homelessness are not valid bases for the assertion of juvenile court jurisdiction. (*In re P.C.* (2008) 165 Cal.App.4th 98, 103-104.) However,

mother's transient lifestyle was due to her mental instability and dependence on painkillers, not poverty.

At the time of the detention, mother admitted she did not have a stable residence, stating that she lived between her boyfriend's residence and the condemned apartment she occupied with a friend. The minor described his mother's living situation as living on the streets. The maternal uncle described mother as transient. By all accounts, the minor was living with his grandmother who was meeting all his needs. At the time of the jurisdictional hearing, the social worker testified that mother was living with a friend, whose address mother had just provided on January 11, 2013, less than a month before the hearing, although mother was willing to live with the maternal grandmother. At the hearing, mother also testified she was living with a friend, although she did not state how long she had lived in that location, or how long she intended to remain there.

Mother's testimony did not establish she had a stable residence where she could provide for the minor. At best, she had resided at the most recent location for less than a month. Balanced against her lengthy history of transiency and unstable residence dating back to the previous dependency case involving the minor's half-siblings, her current situation was unchanged. Against the backdrop of years of instability, one month of residence at a new location does not establish stability. The finding relating to mother's transient lifestyle is supported by the record.

Mother also argues there was no evidence she ever failed to provide the minor with shelter, food, clothing or medical treatment within the meaning of section 300,

subdivision (b). She urges that no authority precludes parents from securing help from grandparents in rearing and caring for children. The record contradicts her position.

The evidence presented to the court by way of the social worker's reports and his testimony establishes that the minor depended on the kindness of maternal relatives for shelter, food, clothing and day to day caretaking. Yet those same well-meaning relatives allowed the minor to stay overnight every Friday at his maternal uncle's home, where marijuana plants, toxic chemicals and loaded weapons were accessible to the child. A parent may be permitted to seek assistance and support from family members in the care of her children when assistance is needed, but is not permitted to abdicate all responsibility for ensuring the safety and protection of the child, as this mother did.

The court's determination that mother's living situation was unstable and transient is supported by substantial evidence.

**2. Removal of the Child Was Justified**.

Mother argues that the dispositional order removing the minor from her custody was reversible error. We disagree.

When a minor has been adjudged a dependent child of the court on the ground that he or she is a person described by section 300, the court may limit the control to be exercised over the dependent child by the parent or guardian. (§ 361, subd. (a).) A dependent child may not be taken from the physical custody of his or her parents or guardians unless the juvenile court finds, by clear and convincing evidence, certain circumstances. (§ 361, subd. (c).) A finding that there is or would be a substantial

danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor, is one of the circumstances that justifies removal. (§ 361, subd. (c)(1).)

The jurisdictional findings are prima facie evidence that the child cannot remain safely in the home. (§ 361, subd. (c)(1); *In re T.V., supra*, 217 Cal.App.4th at pp. 126, 135.) The parent need not be dangerous and the child need not have been actually harmed for removal to be appropriate. (*In re Cole C.* (2009) 174 Cal.App.4th 900, 917, 918.) To support a removal order, the court may consider the parents' past conduct as well as present circumstances. (*Id.* at p. 917.) A removal order is proper if based on proof of parental inability to provide proper care for the child and proof of a potential detriment to the child if he or she remains with the parent. (*In re N.M.* (2011) 197 Cal.App.4th 159, 169.)

We review the court's dispositional findings for substantial evidence. (*In re Lana S.* (2012) 207 Cal.App.4th 94, 105.) In applying this standard, we are mindful that it is the trial court's role to assess the credibility of the witnesses, and to weigh the evidence to resolve the conflicts in the evidence. (*In re A.S.* (2011) 202 Cal.App.4th 237, 244.) We do not evaluate the credibility of witnesses, attempt to resolve conflicts in the evidence or determine the weight of the evidence. (*In re R.V.* (2012) 208 Cal.App.4th 837, 843.) Instead, we draw all reasonable inferences in support of the findings, view the record favorably to the juvenile court's order and affirm the order even if there is other

evidence supporting a contrary finding. (*Ibid.*) In other words, we must accept the evidence most favorable to the order as true and discard the unfavorable evidence as not having sufficient verity to be accepted by the trier of fact. (*In re A.S., supra*, 202 Cal.App.4th at p. 244 citing *In re Casey D.* (1999) 70 Cal.App.4th 38, 52-53.)

Here, mother was unable to act as the primary caretaker of the minor, relying on the maternal grandmother and uncle to do so in her place. She had lost custody of the minor's older half-siblings and failed to reunify with them, leading to the termination of her parental rights. Her mental health issues were documented in the earlier case and had never been addressed, much less resolved. Further, the mother currently admitted to taking several strong opiates for pain, as well as other antidepressant and anti-anxiety medications, without psychiatric supervision, and indicated she had been diagnosed with depression and "socio-path."

Mother's instability resulted in her leaving the minor in the care of relatives, just as she had done with her older children. By leaving the minor with his maternal grandmother, he was allowed to spend Friday nights in a virtual marijuana farm, until his uncle's arrest. Mother was aware of the uncle's criminal record and was aware that the minor was visiting the uncle regularly. There is substantial evidence to support the court's finding that there was a substantial risk of danger to his physical health, safety, protection, or physical or emotional well-being.

**3. Placement of the Child With the Non-Custodial Parent Was Proper**.

Mother argues that the court abused its discretion in placing the minor with his father pursuant to section 361.2. We disagree.

Section 361.2 provides, in part, that when a court orders removal of a child pursuant to section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time of the events or conditions that brought the child within the provisions of section 300, who desires to assume custody of the child. (§ 361.2, subd. (a).) If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child. (§ 361.2, subd. (a); *In re John M.* (2013) 217 Cal.App.4th 410, 420, citing *In re Marquis D.* (1995) 38 Cal.App.4th 1813, 1829.)

A "nonoffending" parent is a parent who was not involved in the conduct that caused the removal of the child under section 361. (*In re Marquis D., supra,* 38 Cal.App.4th at p. 1823.) A parent with whom the child was not residing at the time of the initiation of the dependency, whether or not due to a family law custody order, is presumptively entitled to custody because he or she has not been previously found to pose a risk of harm to the child. (*In re A.A.* (2012) 203 Cal.App.4th 597, 610 (*In re A.A.*) [Fourth Dist., Div. 2].) Only a presumed father is entitled to assume immediate custody under section 361.2. (*In re Zacharia D.* (1993) 6 Cal.4th 435, 454.)

In *In re A.A.* this court held that an incarcerated mother, who had previously lost custody of two children in dependency proceedings, was not eligible for placement under section 361.2 when one of the minors, who had been placed with his father, re-entered the dependency system on a reactivated petition due to abuse by the father. In that case, we held that where the mother's noncustodial status was the result of a prior finding of detriment and an involuntary removal order, she was ineligible for consideration for placement under section 361.2.[5]

A finding of detriment, by clear and convincing evidence, is required to justify an order that a child should not be placed with a noncustodial, nonoffending parent. (*In re Isayah C.* (2004) 118 Cal.App.4th 684, 699-700; *In re Luke M.* (2003) 107 Cal.App.4th 1412, 1426.) If placement with the noncustodial parent is ordered, the juvenile court has several options under section 361.2: (1) It may terminate jurisdiction; (2) it may order that the parent assume custody subject to the jurisdiction of the court; or (3) it may order that the parent assume custody subject to court supervision and order that reunification services be provided to the parent or guardian from whom the child was removed. (§ 361.2, subd. (b).) The express language of this statutory provision indicates that the

[5] At oral argument, mother urged that father was not entitled to placement under section 361.2 under our holding in *In re A.A.*, because an allegation in the petition against him was found true. This father's situation is easily distinguishable from that case because custody had previously never been removed from father upon a finding of detriment, as was the case in our precedent.

court "may" do any of those things. The juvenile court has broad discretion to make appropriate orders. (*In re Gabriel L.* (2009) 172 Cal.App.4th 644, 652.)

Generally, we review orders terminating the juvenile court's jurisdiction under an abuse of discretion standard. (*In re A.J.* (2013) 214 Cal.App.4th 525, 535, fn. 7; *Bridget A. v. Superior Court* (2007) 148 Cal.App.4th 285, 300.) Under this standard, we may not disturb the order unless the court exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination. (*Id.* at pp. 300-301.) Mother argues that placement with the father exposed the minor to risk and failed to ensure his safety and well-being. She points to the fact that the minor had a minimal relationship with his father, and the fact that father had not supported the minor. Mother also testified that father used drugs and claimed he admitted to recent drug use during the Team Decision Making Meeting at which the decision was made to place the minor with his father. The social worker denied that father admitted to any drug use at the Team Decision Making Meeting and, contrary to mother's statements, there was no indication he had ever used methamphetamine. Instead, the social worker's Addendum Report indicates that the Team Decision Making Meeting concluded with a decision to place the child with father, suggesting there was no concern about father's drug use, save in mother's imagination.

As for father's alleged failure to provide for the minor's necessities, there was contradictory evidence. The true finding on the allegation pertaining to father was made by a preponderance of the evidence, and must be considered in context, where that same

allegation acknowledged father was not a member of the minor's household, and the sole reason for not dismissing the allegation was because the social worker was concerned that all of the child's emotional ties were with his maternal relatives. However, the child's therapist concluded this was not a concern.

As for mother's concern about the minimal relationship between father and child, there is nothing in the record to support the concern. It is true that the minor said he had not seen his father in several years, but the father informed the social worker that he had seen his son five or six times in the past two years. This statement was corroborated by the social worker's observation of the father's initial visit with the minor, where he described the interaction between father and child as indicating the times that they had spent together were still fresh in the minor's mind, suggesting they had "some meaningful interactions in the last couple of years." Mother's statements, given her mental instability and lack of corroboration, would not support a denial of placement.

Regarding support, mother stated father had never supported the minor, but she waited till May 2012, a few months prior to the filing of the petition to seek a support order from the Family Court. Father contradicted mother's statement and informed the social worker that he picked the minor up and dropped him off and bought the minor whatever he needed. While father certainly could have been more protective of the minor, a circumstance which no doubt factored into the court's finding on the allegation in the petition relating to father's failure to protect, there is nothing in the record to show that placement with father would be detrimental to the minor.

The father in the present case was a presumed father. Absent a finding of detriment, he was entitled to custody of the minor. None of mother's allegations against father were substantiated and the juvenile court did not make a finding of detriment, a necessary predicate to removal, so an award of custody to the father was required. Where there is no protection issue, it is appropriate to terminate jurisdiction. (*In re A.J., supra*, 214 Cal.App.4th at p. 538.) In terminating jurisdiction, the court necessarily rejected mother's unsubstantiated reports concerning risks to the minor if placed in father's custody. No protective issue was presented, especially given the social worker's testimony and addendum report indicated the child was adapting well in the father's home. While reasonable minds might differ as to whether or not to retain jurisdiction over the child, the decision to terminate jurisdiction was within the court's broad discretion.

**DISPOSITION**

The judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

RAMIREZ
P. J.

We concur:

RICHLI
J.

KING
J.